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Attorneys for Defendants JP Morgan Chase Bank, N.A.,

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

PETER S. DAVIS, as Receiver of DENSCO
INVESTMENT CORPORATION, an Arizona
corporation,

Plaintiff,

v.

U.S. BANK, NA. a national banking
organization; HILDA H. CHAVEZ and JOHN
DOE CHAVEZ, a married couple; JP
MORGAN CHASE BANK, N.A., a national
banking organization; SAMANTHA NELSON
f/k/a SAMANTHA KUMBALECK and
KRISTOFER NELSON, a married couple, and
VIKRAM DADLANI and JANE DOE
DADLANI, a married couple,

Defendants.

NO. CV2019-011499

**DEFENDANT JPMORGAN
CHASE BANK, N.A.'S, ANSWER
AND AFFIRMATIVE DEFENSES
TO THIRD AMENDED
COMPLAINT**

(Assigned to the Hon. Daniel Martin)

1 Defendant JPMorgan Chase Bank, N.A. (“Defendant” or “Chase”), by and through
2 undersigned counsel, hereby answers the Third Amended Complaint filed by Plaintiff
3 Peter S. Davis, as Receiver of DenSco Investment Corporation (“Plaintiff” or
4 “Receiver”), states as follows:

5 SUMMARY OF PLAINTIFF’S CLAIMS

6 1. From July 2001 to July 2016, DenSco Investment Corporation (“DenSco”)
7 raised approximately \$85 million from investors. Among other things, DenSco told its
8 investors that (i) it would make short-term “hard money” loans to “foreclosure
9 specialists” who were buying foreclosed homes, and (ii) the loans would be “secured
10 through first position trust deeds” so that DenSco would, in the event a borrower
11 defaulted, recover the loaned funds by taking possession of the property.

12 **RESPONSE:** Chase lacks knowledge or information sufficient to form a belief as
13 to the truth of the allegations in Paragraph 1, which therefore has the effect of a denial
14 pursuant to Ariz. R. Civ. P. 8(c)(5).

15 2. Yomtov Scott Menaged (“Menaged”) defrauded DenSco in two distinct
16 frauds. In the first fraud, which ended in the latter half of 2013, Menaged borrowed money
17 from both DenSco and another lender, using the same property as security, leaving
18 DenSco undersecured on hundreds of properties. Menaged used the funds he borrowed
19 from DenSco for his own purposes.

20 **RESPONSE:** Chase lacks knowledge or information sufficient to form a belief as
21 to the truth of the allegations in Paragraph 2, which therefore has the effect of a denial
22 pursuant to Ariz. R. Civ. P. 8(c)(5).

23 3. In early 2014, DenSco established new procedures to ensure Menaged used
24 its loans to acquire property that would be secured by first position loans by, among other
25 things, wiring monies to accounts that Menaged maintained with Defendant US Bank,
26 N.A. and Defendant JP Morgan Chase Bank, N.A., respectively, and then having
27 Menaged provide copies of cashier’s checks that on their face were to be used to purchase
28 specific properties. In the second fraud, Menaged evaded these procedures by not using

1 these checks for their intended purpose, immediately redepositing them and converting
2 the funds for his personal use.

3 **RESPONSE:** Chase admits that according to the Receiver, DenSco and Chittick
4 continued to participate in a real estate fraud scheme involving DenSco and Menaged
5 even after DenSco discovered the fraud. *Peter S. Davis, as Receiver of DenSco*
6 *Investment Corporation v. Clark Hill, PLC*, Case No. CV2017-013832. Chase lacks
7 additional knowledge and information sufficient to form a belief as to the truth of the
8 remaining allegations in Paragraph 3, which therefore has the effect of a denial pursuant
9 to Ariz. R. Civ. P. 8(c)(5).

10 4. Nearly every business day between January 2014 and June 2015, for more
11 than 1,400 transactions, Defendant banks, their named employees and their senior
12 managers substantially assisted, authorized, ratified, and recklessly tolerated Menaged's
13 unlawful conduct.

14 **RESPONSE:** Chase denies Paragraph 4's allegations to the extent they allege that
15 Chase and/or its employees substantially assisted, authorized, ratified, and recklessly
16 tolerated Menaged's unlawful conduct. Chase lacks knowledge and information
17 sufficient to form a belief as to the truth of the remaining allegations in Paragraph 4,
18 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

19 5. Defendants knew that Menaged was in the business of purchasing
20 foreclosed properties, that Menaged had a fiduciary relationship with DenSco, and that
21 DenSco wired Menaged monies to issue as cashier's checks for the specific purpose of
22 purchasing foreclosed properties on DenSco's behalf.

23 **RESPONSE:** Chase denies the allegations in Paragraph 5.

24 6. Defendants knew Menaged did not use these funds for their intended
25 purpose, as, almost immediately after they were issued, Menaged re-deposited these
26 cashier's checks, later using these monies for personal expenses unrelated to DenSco.

27 **RESPONSE:** Chase denies the allegations in Paragraph 6.
28

1 7. Defendants substantially assisted and recklessly tolerated Menaged's
2 unlawful conduct by, among other things, preparing a cashier's check for each
3 transaction, stamping on the back of most of the checks "Not Used for Intended
4 Purposes," observing Menaged or his agent photograph the fronts of the checks, preparing
5 deposit slips and assisting Menaged in re-depositing the cashier's checks immediately
6 after the photos had been taken, and assisting Menaged use these funds, by, among other
7 things, avoiding bank policies to facilitate immediate cash withdrawals, transferring
8 monies to Menaged's personal accounts, and helping him use these funds to pay various
9 casinos.

10 **RESPONSE:** Chase denies the allegations in Paragraph 7.

11 8. Through their knowledge and substantial assistance, Defendants aided and
12 abetted Menaged in defrauding DenSco, converting DenSco's monies and breaching his
13 fiduciary duties to DenSco.

14 **RESPONSE:** Chase denies the allegations in Paragraph 8.

15 9. Menaged defrauded DenSco, committed theft of its property, and laundered
16 the monies DenSco wired to him to purchase these properties. Defendants transacted,
17 transferred or received DenSco's monies knowing that they belonged to DenSco and not
18 Menaged, and that those monies were the proceeds of Menaged's theft, fraud scheme and
19 money laundering. Defendants authorized, ratified or recklessly tolerated Menaged's
20 unlawful conduct and are therefore liable under Arizona's civil racketeering laws for
21 Menaged's conduct.

22 **RESPONSE:** Chase denies the allegations in Paragraph 9 insofar as they relate to
23 Chase. Chase lacks knowledge or information sufficient to form a belief as to the truth
24 of the remaining allegations in Paragraph 9, which therefore has the effect of a denial
25 pursuant to Ariz. R. Civ. P. 8(c)(5).

26 10. Plaintiff brings this action to recover compensatory damages for the
27 financial losses DenSco suffered as a result of Defendants' aiding and abetting Menaged's
28 fraud, conversion, and breaches of fiduciary duty, and Defendants' civil racketeering.

1 **RESPONSE:** Chase denies the allegations in Paragraph 10 insofar as they relate
2 to Chase. Chase denies that DenSco suffered damages as a result of any action or inaction
3 on the part of Chase. Chase lacks knowledge or information sufficient to form a belief as
4 to the truth of the remaining allegations in Paragraph 10, which therefore has the effect
5 of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

6 11. DenSco is an Arizona corporation that began operating in April 2001. Its
7 primary business was making short-term, high-interest loans to “foreclosure specialists”
8 who bought homes that were being foreclosed upon, usually through a trustee’s sale.
9 DenSco’s office was in Chandler, Arizona.

10 **RESPONSE:** Chase lacks knowledge or information sufficient to form a belief as
11 to the truth of the allegations in Paragraph 11, which therefore has the effect of a denial
12 pursuant to Ariz. R. Civ. P. 8(c)(5).

13 12. Denny Chittick (“Chittick”) was DenSco’s sole shareholder. He was the
14 Company’s only Director, served as its President, Vice President, Treasurer, and
15 Secretary, and was its only employee.

16 **RESPONSE:** Chase admits that according to the Receiver, Chittick was the sole
17 shareholder of DenSco. *Peter S. Davis, as Receiver of DenSco Investment Corporation*
18 *v. Clark Hill, PLC*, Case No. CV2017-013832. Chase lacks additional knowledge or
19 information sufficient to form a belief as to the truth of the remaining allegations in
20 Paragraph 12.

21 13. Plaintiff was appointed as DenSco’s Receiver in *Arizona Corporation*
22 *Commission v. DenSco Investment Corporation, an Arizona Corporation*, Maricopa
23 County Superior Court, Case No. CV2016-014142 (the “Receivership Court”). He has
24 obtained approval from the Receivership Court to pursue this action.

25 **RESPONSE:** Chase admits the allegations in Paragraph 13 insofar as they are
26 consistent with the orders of the Receivership Court.

1 14. Defendant US Bank, N.A. is a national banking association that is
2 authorized to conduct business in the State of Arizona and which maintains branches in
3 Maricopa County, among other places.

4 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
5 as to the truth of the allegations in Paragraph 14, which therefore has the effect of a denial
6 pursuant to Ariz. R. Civ. P. 8(c)(5).

7 15. Defendant Hilda Chavez was an employee and branch manager for US
8 Bank in Maricopa County. She is an Arizona resident who is married to Defendant John
9 Doe Chavez. Hilda Chavez was acting for the benefit of her marital community during
10 the relevant time period.

11 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
12 as to the truth of the allegations in Paragraph 15, which therefore has the effect of a denial
13 pursuant to Ariz. R. Civ. P. 8(c)(5).

14 16. Defendant JP Morgan Chase Bank, N.A. (“Chase”) is a national banking
15 association that is authorized to conduct business in the State of Arizona and which
16 maintains branches in Maricopa County, among other places.

17 **RESPONSE:** Chase admits the allegations in Paragraph 16.

18 17. Defendant Samantha Nelson (formerly known as Samantha Kumbaleck)
19 was an employee, assistant branch manager and branch manager for Chase in Maricopa
20 County. She is an Arizona resident who is married to Defendant Kristofer Nelson.
21 Samantha Nelson was acting for the benefit of her marital community during the relevant
22 time period.

23 **RESPONSE:** Chase admits only that Samantha Nelson (formerly known as
24 Samantha Kumbaleck) was an employee, assistant branch manager and branch manager
25 for Chase in Maricopa County. Chase lacks knowledge or information sufficient to form
26 a belief as to the truth of the remaining allegations in Paragraph 17, which therefore has
27 the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).
28

1 18. Defendant Vikram Dadlani was a Chase employee and branch manager in
2 Maricopa County. He is married to Defendant Jane Doe Dadlani. Vikram Dadlani was an
3 Arizona resident and was acting for the benefit of his marital community during the
4 relevant time period.

5 **RESPONSE:** Chase admits only that Vikram Dadlani was a Chase employee and
6 branch manager in Maricopa County. Chase lacks knowledge or information sufficient
7 to form a belief as to the truth of the remaining allegations in Paragraph 18, which
8 therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

9 19. This Court has subject matter jurisdiction under Article VI, § 14 of the
10 Arizona Constitution and A.R.S. § 12-123. It has personal jurisdiction over Defendants
11 because they provided professional services in Arizona to an Arizona corporation.

12 **RESPONSE:** Because Chase denies that the Receiver has standing to bring the
13 claims asserted in the Complaint, Chase denies the allegations in Paragraph 19 insofar as
14 they relate to subject matter jurisdiction. Chase admits that it is not challenging personal
15 jurisdiction in this case. Chase lacks knowledge or information sufficient to form a belief
16 as to the truth of the remaining allegations in Paragraph 19 insofar as they relate to any
17 other defendant, which therefore has the effect of a denial pursuant to Ariz. R. Civ. P.
18 8(c)(5).

19 20. Venue is proper in Maricopa County under A.R.S. § 12-401 because
20 Defendants US Bank and Chase do business in Maricopa County and the acts that are the
21 subject of this action took place at bank branches located in Maricopa County.

22 **RESPONSE:** Because Chase denies that Plaintiff has standing to bring the claims
23 asserted in the Third Amended Complaint, Chase denies the allegations in Paragraph 20.

24 21. Upon information and belief, Menaged was the sole member of Easy
25 Investments, LLC (“Easy Investments”).

26 **RESPONSE:** Chase lacks knowledge or information sufficient to form a belief as
27 to the truth of the allegations in Paragraph 21, which therefore has the effect of a denial
28 pursuant to Ariz. R. Civ. P. 8(c)(5).

1 22. Upon information and belief, Menaged was the sole member of Arizona
2 Home Foreclosures, LLC (“AZHF”).

3 **RESPONSE:** Chase lacks knowledge or information sufficient to form a belief as
4 to the truth of the allegations in Paragraph 22, which therefore has the effect of a denial
5 pursuant to Ariz. R. Civ. P. 8(c)(5).

6 23. Menaged held himself, Easy Investments, and AZHF to be in the business
7 of purchasing homes being foreclosed upon at trustee’s sales.

8 **RESPONSE:** Chase lacks knowledge or information sufficient to form a belief as
9 to the truth of the allegations in Paragraph 23, which therefore has the effect of a denial
10 pursuant to Ariz. R. Civ. P. 8(c)(5).

11 24. DenSco made “hard money loans” to Menaged, Easy Investments, and
12 AZHF for the purpose of purchasing foreclosed upon homes at trustees’ sales (the
13 “DenSco Loan Proceeds”). Menaged established a business relationship with DenSco in
14 approximately 2007. Over the years, Menaged developed with Chittick a personal
15 friendship and a business relationship such that DenSco put its trust and confidence in
16 Menaged’s integrity and fidelity.

17 **RESPONSE:** Chase lacks knowledge or information sufficient to form a belief as
18 to the truth of the allegations in Paragraph 24, which therefore has the effect of a denial
19 pursuant to Ariz. R. Civ. P. 8(c)(5).

20 25. Menaged betrayed his fiduciary relationship with DenSco, and the oral and
21 written commitments he made to DenSco, by perpetrating two separate and distinct
22 fraudulent schemes against DenSco.

23 **RESPONSE:** Chase lacks knowledge or information sufficient to form a belief as
24 to the truth of the allegations in Paragraph 25, which therefore has the effect of a denial
25 pursuant to Ariz. R. Civ. P. 8(c)(5).

26 26. In the first scheme (the “First Fraud”), which ended in the latter half of
27 2013, on multiple occasions, Menaged obtained loans from DenSco and another hard
28 money lender to acquire property being sold through a trustee’s sale that was intended to

1 be secured by that property. This resulted in DenSco being undersecured on multiple
2 loans and the DenSco Loan Proceeds being used by Menaged for other purposes.
3 Menaged was able to orchestrate the First Fraud in part because Chittick funded DenSco's
4 loans by paying the proceeds directly to Menaged rather than the trustee or escrow
5 company conducting the trustee's sale.

6 **RESPONSE:** Chase denies Paragraph 26's characterization of its allegations as
7 pertaining to a distinct "First Fraud" as inconsistent with the Receiver's other court
8 filings. Chase lacks knowledge or information sufficient to form a belief as to the truth
9 of the remaining allegations in Paragraph 26, which therefore has the effect of a denial
10 pursuant to Ariz. R. Civ. P. 8(c)(5).

11 27. Chittick discovered the First Fraud in or around November 2013.

12 **RESPONSE:** Chase admits that according to the Receiver, DenSco was aware of
13 being defrauded by Menaged by at least November 2013. *Peter S. Davis, as Receiver of*
14 *DenSco Investment Corporation v. Clark Hill, PLC*, Case No. CV2017-013832. Chase
15 denies Paragraph 27's characterization of its allegations as pertaining to a distinct "First
16 Fraud" as inconsistent with the Receiver's prior court filings. Chase lacks additional
17 knowledge or information sufficient to form a belief as to the truth of the remaining
18 allegations in Paragraph 27.

19 28. On November 27, 2013, in a face-to-face meeting, Chittick confronted
20 Menaged about the loans he had obtained from DenSco and another hard money lender
21 for the same property. Menaged falsely said that his wife had cancer and that his "cousin"
22 had masterminded and perpetrated the First Fraud while he was distracted by caring for
23 his sick wife.

24 **RESPONSE:** Chase admits that according to the Receiver, Chittick and Menaged
25 met regarding Menaged defrauding Chittick and DenSco by at least November 2013.
26 *Peter S. Davis, as Receiver of DenSco Investment Corporation v. Clark Hill, PLC*, Case
27 No. CV2017-013832. Chase denies Paragraph 28's characterization of its allegations as
28 pertaining to a distinct "First Fraud" as inconsistent with the Receiver's prior court filings.

1 Chase lacks additional knowledge or information sufficient to form a belief as to the truth
2 of the remaining allegations in Paragraph 28.

3 29. Chittick, believing Menaged's story, agreed with Menaged that DenSco
4 would continue loaning money to Menaged's entities so that DenSco and Menaged could
5 jointly and collaboratively "work out" the problem loans that resulted from the conduct
6 of Menaged's cousin. DenSco relied upon Menaged's representations that he would use
7 all future loans from DenSco for their intended purpose and would work closely with
8 DenSco to complete the "work out" plan. DenSco's decision to put trust and confidence
9 in Menaged, and to rely upon him as a fiduciary to effectuate the "work out" plan, is
10 reflected in numerous written communications between Chittick and Menaged that began
11 in December 2013 and continued for years thereafter, as well as a Term Sheet that
12 DenSco, Menaged, Arizona Home Foreclosures, LLC and Easy Investment, LLC signed
13 in January 2014.

14 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
15 as to the truth of the allegations in Paragraph 29, which therefore has the effect of a denial
16 pursuant to Ariz. R. Civ. P. 8(c)(5).

17 30. In January 2014, Chittick sought advice from DenSco's attorney, David
18 Beauchamp ("Beauchamp") about his plan to continue DenSco's lending relationship
19 with Menaged's entities.

20 **RESPONSE:** Chase admits that according to the Receiver, DenSco informed its
21 attorney about the real estate scheme involving DenSco and Menaged and Chittick's plan
22 to continue DenSco's lending relationship with Menaged's entities, which continued.
23 *Peter S. Davis, as Receiver of DenSco Investment Corporation v. Clark Hill, PLC*, Case
24 No. CV2017-013832. Chase lacks additional knowledge or information sufficient to form
25 a belief as to the truth of the remaining allegations in Paragraph 30, which therefore has
26 the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

27 31. DenSco eventually entered into a Forbearance Agreement with Menaged
28 and his entities under which DenSco would forbear its rights and remedies against

1 Menaged and those entities, provided Menaged would among other things, pay certain
2 sums and take other actions to repay the amounts owed to DenSco, including the actions
3 Menaged had previously agreed to take to effectuate the “work out” plan.

4 **RESPONSE:** Chase admits that according to the Receiver, DenSco and Chittick
5 entered into the Forbearance Agreement and chose to continue doing business with
6 Menaged, notwithstanding that DenSco was fully aware of being defrauded and rendered
7 insolvent because of that fraud. *Peter S. Davis, as Receiver of DenSco Investment*
8 *Corporation v. Clark Hill, PLC*, Case No. CV2017-013832. Chase lacks additional
9 knowledge or information sufficient to form a belief as to the truth of the remaining
10 allegations in Paragraph 31, which therefore has the effect of a denial pursuant to Ariz.
11 R. Civ. P. 8(c)(5).

12 32. While DenSco continued to rely on Menaged’s integrity and fidelity in
13 fulfilling the commitments that he and his entities had made to effectuate the “work out”
14 plan, in January 2014, Chittick, on Beauchamp’s advice, took steps to protect DenSco
15 from any further misappropriation of its loan proceeds by requiring Menaged to document
16 his receipt and use of those loan proceeds, which DenSco had not previously required.
17 Specifically, DenSco agreed to continue wiring money to Menaged but required Menaged
18 to provide, for each loan made for a specific property, copies of: (i) the individual
19 cashier’s check issued by Menaged’s bank made payable to the respective foreclosure
20 trustee, with DenSco’s name and the property address in the memo line, and (ii) the
21 corresponding receipt Menaged received from the trustee for the purchase of that
22 property.

23 **RESPONSE:** Chase admits that according to the Receiver, DenSco and Chittick
24 entered into the Forbearance Agreement and chose to continue doing business with
25 Menaged, notwithstanding that DenSco was fully aware of being defrauded and rendered
26 insolvent because of that fraud. *Peter S. Davis, as Receiver of DenSco Investment*
27 *Corporation v. Clark Hill, PLC*, Case No. CV2017-013832. Chase also admits that
28 according to the Receiver, DenSco informed its attorney about the real estate scheme

1 involving DenSco and Menaged and Chittick's plan to continue DenSco's lending
2 relationship with Menaged's entities, which continued. *Peter S. Davis, as Receiver of*
3 *DenSco Investment Corporation v. Clark Hill, PLC*, Case No. CV2017-013832. Chase
4 lacks additional knowledge or information sufficient to form a belief as to the truth of the
5 remaining allegations in Paragraph 32, which therefore has the effect of a denial pursuant
6 to Ariz. R. Civ. P. 8(c)(5).

7 33. Chittick, relying on, and trusting in Menaged, did not believe that Menaged
8 had perpetrated the First Fraud and continued to accept as true, Menaged's stories about
9 his wife's compromised health. Chittick understood that he owed fiduciary duties to his
10 investors, many of whom were family members or friends, to recoup DenSco's losses
11 from the First Fraud and to protect DenSco from further losses. He relied on DenSco's
12 counsel, Beauchamp, in implementing these new procedures and believed they would
13 adequately protect DenSco from any further misappropriation of loan proceeds. Chittick
14 and DenSco continued to rely on Menaged's integrity and fidelity in fulfilling the
15 commitments that Menaged and his entities had made to effectuate the "work out" plan.

16 **RESPONSE:** Chase denies Paragraph 33's characterization of its allegations as
17 pertaining to a distinct "First Fraud" as inconsistent with the Receiver's prior court filings.
18 Chase admits that according to the Receiver, DenSco informed its attorney about the real
19 estate scheme involving DenSco and Menaged and Chittick's plan to continue DenSco's
20 lending relationship with Menaged's entities, which continued. *Peter S. Davis, as*
21 *Receiver of DenSco Investment Corporation v. Clark Hill, PLC*, Case No. CV2017-
22 013832. Chase lacks knowledge and information sufficient to form a belief as to the truth
23 of the remaining allegations in Paragraph 33, which therefore has the effect of a denial
24 pursuant to Ariz. R. Civ. P. 8(c)(5).

25 34. Menaged, however, fooled Chittick a second time and began a systematic
26 and comprehensive scheme to defraud DenSco by obtaining, but then redepositing,
27 cashier's checks, and then creating false deeds, contracts and receipts documenting the
28 fictitious purchase of real estate at a trustee's sale (the "Second Fraud"). As part of the

1 Second Fraud, Menaged obtained over 1,400 loans from DenSco beginning in January
2 2014. Menaged did not use these loan proceeds for their intended purpose—to purchase
3 real estate at a trustee’s sale.

4 **RESPONSE:** Chase admits that according to the Receiver, DenSco and Chittick
5 continued to participate in a real estate fraud scheme involving DenSco and Menaged
6 even after DenSco discovered that it had been defrauded. *Peter S. Davis, as Receiver of*
7 *DenSco Investment Corporation v. Clark Hill, PLC*, Case No. CV2017-013832. Chase
8 denies Paragraph 34’s characterization of its allegations as pertaining to a distinct
9 “Second Fraud” as inconsistent with the Receiver’s prior court filings. To the extent a
10 further response is required, Chase lacks additional knowledge and information sufficient
11 to form a belief as to the truth of the remaining allegations in Paragraph 34, which
12 therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

13 35. Starting in January 2014, Menaged emailed to DenSco nearly every
14 weekday a list of properties in foreclosure proceedings (“Identified Properties”).

15 **RESPONSE:** Chase admits that according to the Receiver, DenSco and Chittick
16 continued to participate in a real estate fraud scheme involving DenSco and Menaged
17 even after DenSco discovered the fraud and that Menaged would email DenSco as
18 described above. *Peter S. Davis, as Receiver of DenSco Investment Corporation v. Clark*
19 *Hill, PLC*, Case No. CV2017-013832. To the extent a further response is required, Chase
20 lacks additional knowledge and information sufficient to form a belief as to the truth of
21 the allegations in Paragraph 35, which therefore has the effect of a denial pursuant to Ariz.
22 R. Civ. P. 8(c)(5).

23 36. In those emails, Menaged misrepresented that (i) he was the winning bidder
24 on the listed properties at a trustee’s sale, (ii) his companies, Easy Investments or AZHF,
25 needed financing to purchase the Identified Properties, and (iii) he would use DenSco’s
26 loaned funds to complete the purchase of the Identified Properties.

27 **RESPONSE:** Chase admits that according to the Receiver, DenSco and Chittick
28 continued to participate in a real estate fraud scheme involving DenSco and Menaged

1 even after DenSco discovered the fraud and that Menaged would email DenSco as
2 described above. *Peter S. Davis, as Receiver of DenSco Investment Corporation v. Clark*
3 *Hill, PLC*, Case No. CV2017-013832. To the extent a further response is required, Chase
4 lacks additional knowledge and information sufficient to form a belief as to the truth of
5 the allegations in Paragraph 36, which therefore has the effect of a denial pursuant to Ariz.
6 R. Civ. P. 8(c)(5).

7 37. These emails included, among other things, the addresses of the Identified
8 Properties and the purchase prices needed to be reflected in the loan amounts.

9 **RESPONSE:** Chase admits that according to the Receiver, DenSco and Chittick
10 continued to participate in a real estate fraud scheme involving DenSco and Menaged
11 even after DenSco discovered the fraud and that Menaged would email DenSco as
12 described above. *Peter S. Davis, as Receiver of DenSco Investment Corporation v. Clark*
13 *Hill, PLC*, Case No. CV2017-013832. To the extent a further response is required, Chase
14 lacks additional knowledge and information sufficient to form a belief as to the truth of
15 the allegations in Paragraph 37, which therefore has the effect of a denial pursuant to Ariz.
16 R. Civ. P. 8(c)(5).

17 38. Menaged never intended to purchase the Identified Properties. Rather, he
18 intended for DenSco to rely on these material misrepresentations and wire him the
19 DenSco Loan Proceeds that he would convert for his personal use.

20 **RESPONSE:** Chase denies Paragraph 38's allegations regarding Menaged's
21 intent and purchase of Identified Properties as inconsistent with the Receiver's prior court
22 filings. Answering further, to the extent Paragraph 38 purports to allege what, in fact,
23 Menaged did or did not intend, Chase lacks knowledge and information sufficient to form
24 a belief as to the truth of that allegation, which therefore has the effect of a denial pursuant
25 to Ariz. R. Civ. P. 8(c)(5).

26 39. DenSco relied on these material misrepresentations and continued to wire
27 the DenSco Loan Proceeds to Menaged.
28

1 **RESPONSE:** Chase lacks knowledge or information sufficient to form a belief as
2 to the truth of the allegations in Paragraph 39, which therefore has the effect of a denial
3 pursuant to Ariz. R. Civ. P. 8(c)(5).

4 40. Menaged concealed from DenSco his scheme and his wrongful actions.

5 **RESPONSE:** Chase denies the allegations in Paragraph 40.

6 41. DenSco was damaged as a result of Menaged's fraudulent scheme.

7 **RESPONSE:** Paragraph 41 contains legal conclusions to which no response is
8 required. To the extent a response is required, Chase lacks knowledge and information
9 sufficient to form a belief as to the truth of the allegations in Paragraph 41, which
10 therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

11 42. From December 2012 through May 2016, Menaged and Easy Investments
12 maintained a series of accounts with US Bank.

13 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
14 as to the truth of the allegations in Paragraph 42, which therefore has the effect of a denial
15 pursuant to Ariz. R. Civ. P. 8(c)(5).

16 43. Menaged banked at US Bank's branch located at 6611 W. Bell Road,
17 Glendale, Arizona (the "US Bank Branch").

18 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
19 as to the truth of the allegations in Paragraph 43, which therefore has the effect of a denial
20 pursuant to Ariz. R. Civ. P. 8(c)(5).

21 44. US Bank assigned its Vice President Julia A. Wanta to serve as Menaged's
22 Private Banking Relationship Manager to oversee and facilitate Menaged's relationship
23 with US Bank.

24 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
25 as to the truth of the allegations in Paragraph 44, which therefore has the effect of a denial
26 pursuant to Ariz. R. Civ. P. 8(c)(5).

27 45. Defendant Chavez worked at US Bank and was the manager of the US Bank
28 Branch.

1 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
2 as to the truth of the allegations in Paragraph 45, which therefore has the effect of a denial
3 pursuant to Ariz. R. Civ. P. 8(c)(5).

4 46. Chavez was Menaged's main contact at US Bank. She committed the
5 wrongful acts set forth below while conducting official US Bank business. On
6 information and belief, Wanta and other US Bank senior managers authorized, ratified or
7 recklessly tolerated the account activity that Chavez directed and supervised.

8 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
9 as to the truth of the allegations in Paragraph 46, which therefore has the effect of a denial
10 pursuant to Ariz. R. Civ. P. 8(c)(5).

11 47. US Bank and Defendant Chavez may be referred to as "the US Bank
12 Defendants."

13 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
14 as to the truth of the allegations in Paragraph 47, which therefore has the effect of a denial
15 pursuant to Ariz. R. Civ. P. 8(c)(5).

16 48. Menaged told the US Bank Defendants that, through Easy Investments, he
17 was in the business of purchasing foreclosed homes from public auctions.

18 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
19 as to the truth of the allegations in Paragraph 48, which therefore has the effect of a denial
20 pursuant to Ariz. R. Civ. P. 8(c)(5).

21 49. Menaged further told the US Bank Defendants of his business relationship
22 with DenSco, including the fact that DenSco funded these transactions, lending money to
23 Easy Investments for the purpose of buying foreclosed homes.

24 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
25 as to the truth of the allegations in Paragraph 49, which therefore has the effect of a denial
26 pursuant to Ariz. R. Civ. P. 8(c)(5).

1 50. Between January 13 and April 7, 2014, DenSco wired to Menaged's Easy
2 Investments US Bank account \$7,228,002 in DenSco Loan Proceeds for the purpose of
3 issuing cashier's checks to purchase 40 separate Identified Properties.

4 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
5 as to the truth of the allegations in Paragraph 50, which therefore has the effect of a denial
6 pursuant to Ariz. R. Civ. P. 8(c)(5).

7 51. The US Bank Defendants knew of Menaged's business relationship with
8 DenSco and knew DenSco was the source of these monies, as each wire transfer included
9 the name of the originator -- "DenSco Investment Corporation" -- the entity the US Bank
10 Defendants knew was the funding source for Menaged's Easy Investments home
11 foreclosure business.

12 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
13 as to the truth of the allegations in Paragraph 51, which therefore has the effect of a denial
14 pursuant to Ariz. R. Civ. P. 8(c)(5).

15 52. Approximately 78% of the deposits to Menaged's US Bank Easy
16 Investments account consisted of the DenSco Loan Proceeds wired to Menaged to
17 purchase the Identified Properties.

18 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
19 as to the truth of the allegations in Paragraph 52, which therefore has the effect of a denial
20 pursuant to Ariz. R. Civ. P. 8(c)(5).

21 53. On or about the day DenSco wired monies to the Easy Investments account,
22 Menaged, or his assistant, Veronica Castro, visited the US Bank Branch, where Chavez
23 and other US Bank employees assisted them.

24 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
25 as to the truth of the allegations in Paragraph 53, which therefore has the effect of a denial
26 pursuant to Ariz. R. Civ. P. 8(c)(5).

27 54. Among other things, Chavez and other US Bank employees issued cashier's
28 checks made payable to the trustee for each of the Identified Properties.

1 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
2 as to the truth of the allegations in Paragraph 54, which therefore has the effect of a denial
3 pursuant to Ariz. R. Civ. P. 8(c)(5).

4 55. Chavez and other US Bank employees printed on each check in the memo
5 line: “DenSco Payment [and address of the property]” or “DenSco [and address of the
6 property]”.

7 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
8 as to the truth of the allegations in Paragraph 55, which therefore has the effect of a denial
9 pursuant to Ariz. R. Civ. P. 8(c)(5).

10 56. For nearly each of the 40 checks, which totaled \$6,823,039, Menaged did
11 not use the check for its intended purpose -- the payment to the trustee for the purchase
12 of real property described on each check.

13 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
14 as to the truth of the allegations in Paragraph 56, which therefore has the effect of a denial
15 pursuant to Ariz. R. Civ. P. 8(c)(5).

16 57. Rather, Menaged or Castro took a photo of each check while at the US Bank
17 Branch, usually in the presence of Chavez or another US Bank employee. After taking
18 these photos, Menaged or Castro had Chavez or another US Bank employee redeposit the
19 check into his Easy Investments account.

20 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
21 as to the truth of the allegations in Paragraph 57, which therefore has the effect of a denial
22 pursuant to Ariz. R. Civ. P. 8(c)(5).

23 58. Upon information and belief, neither Chavez nor any US Bank employee
24 asked Menaged or Castro why, at least 40 times, they undertook to have US Bank draft
25 cashier’s checks clearly and expressly intended to purchase from trustees specific
26 foreclosed homes as part of Menaged’s business partnership with DenSco, take photos of
27 those checks and then immediately re-deposit them. A single such transaction lacks any
28

1 legitimate business or banking purpose. Forty or more of them, involving nearly \$7
2 million dollars, is inexplicable.

3 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
4 as to the truth of the allegations in Paragraph 58, which therefore has the effect of a denial
5 pursuant to Ariz. R. Civ. P. 8(c)(5).

6 59. For every one of these issued and redeposited cashier's checks, Menaged
7 or Castro emailed a photo of the check to DenSco as proof that the DenSco Loan Proceeds
8 were being used for their intended purpose. Menaged or Castro would later create false
9 trustee's sale receipts for each transaction, which included information from the
10 photograph of the cashier's check connected to the same fictitious transactions. Menaged
11 or Castro emailed these receipts to DenSco, as well. Chittick relied upon the photographs
12 of the cashier's checks and accepted these photos and sales receipts as confirmation that
13 the DenSco Loan Proceeds were being used for their intended purpose.

14 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
15 as to the truth of the allegations in Paragraph 59, which therefore has the effect of a denial
16 pursuant to Ariz. R. Civ. P. 8(c)(5).

17 60. The US Bank Defendants knew that Menaged was taking photos of the
18 checks and had to have known that he was sending them to DenSco as proof that the
19 DenSco Loan Proceeds were being used for their intended purpose. And the US Bank
20 Defendants knew that Menaged used the DenSco Loan Proceeds for his personal benefit
21 and for the benefit of his other businesses, as they assisted him in obtaining large cash
22 withdrawals of the re-deposited funds and transferring those funds to his personal US
23 Bank accounts, and were otherwise aware that he used these funds to pay off personal
24 credit card debt and to fund unrelated business activities.

25 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
26 as to the truth of the allegations in Paragraph 60, which therefore has the effect of a denial
27 pursuant to Ariz. R. Civ. P. 8(c)(5).
28

1 61. Upon information and belief, Menaged requested and the US Bank
2 Defendants agreed to change US Bank policies at the US Bank Branch, keeping on hand
3 as much as \$20,000 in cash to accommodate Menaged's withdrawal requests.

4 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
5 as to the truth of the allegations in Paragraph 61, which therefore has the effect of a denial
6 pursuant to Ariz. R. Civ. P. 8(c)(5).

7 62. Upon information and belief, the US Bank Defendants violated their
8 internal policies by not requiring a several-day hold period on redeposited funds, making
9 them immediately available to Menaged.

10 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
11 as to the truth of the allegations in Paragraph 62, which therefore has the effect of a denial
12 pursuant to Ariz. R. Civ. P. 8(c)(5).

13 63. The US Bank Defendants were motivated to assist Menaged in these
14 transactions to keep Menaged as a banking customer, particularly one who maintained
15 accounts worth millions of dollars. On information and belief, by keeping Menaged's
16 accounts at US Bank, Chavez, Wanta and other US Bank employees benefitted personally
17 in the form of additional compensation.

18 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
19 as to the truth of the allegations in Paragraph 63, which therefore has the effect of a denial
20 pursuant to Ariz. R. Civ. P. 8(c)(5).

21 64. The US Bank Defendants kept silent as to Menaged's scheme and wrongful
22 actions; they never informed DenSco about Menaged's scheme and wrongful actions.

23 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
24 as to the truth of the allegations in Paragraph 64, which therefore has the effect of a denial
25 pursuant to Ariz. R. Civ. P. 8(c)(5).

26 65. Without the substantial assistance of the US Bank Defendants, Menaged
27 could not have defrauded DenSco of more than \$7 million in DenSco Loan Proceeds.
28

1 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
2 as to the truth of the allegations in Paragraph 65, which therefore has the effect of a denial
3 pursuant to Ariz. R. Civ. P. 8(c)(5).

4 66. From April 2014 through at least November 2016, Menaged and AZHF
5 banked with Chase.

6 **RESPONSE:** Chase admits that AZHF opened an account with Chase in April
7 2014. Chase denies the remaining allegations in Paragraph 66.

8 67. Menaged banked at Chase's branch located at 8999 East Shea Boulevard,
9 Scottsdale, Arizona (the "Chase Branch"). Chase assigned a Private Client Banker, Susan
10 Lazar, to oversee Menaged's accounts and facilitate his banking relationship with Chase.
11 Lazar communicated regularly with Menaged about his business, his relationship with
12 DenSco, and his banking activity at Chase.

13 **RESPONSE:** Chase admits only that Menaged banked at Chase's branch located
14 at 8999 East Shea Boulevard, Scottsdale, Arizona and that Susan Lazar assisted Menaged
15 in her role as a Chase employee. Chase denies the remaining allegations in Paragraph 67.

16 68. From April 2014 through at least November 2016, Defendants Nelson and
17 Dadlani worked at Chase as the assistant manager and/or manager at the Chase Branch.
18 They committed the wrongful acts set forth below while conducting official Chase
19 business. Lazar and other Chase employees, including higher-level employees who
20 managed and supervised Nelson and Dadlani, were aware and ratified their conduct.

21 **RESPONSE:** Chase denies the allegations in Paragraph 68.

22 69. Upon information and belief, Lazar and Defendants Nelson and Dadlani
23 were Menaged's main contacts at Chase.

24 **RESPONSE:** Chase admits that Lazar, Nelson and Dadlani assisted customers at
25 the branch, including Menaged, in their roles as Chase employees. Chase denies the
26 remaining allegations in Paragraph 69.

27 70. Chase, Nelson, and Dadlani may be referred to as "the Chase Defendants."
28

1 **RESPONSE:** Paragraph 70 does not call for a response. To the extent Paragraph
2 70 does call for a response, Chase admits that Plaintiff has created this definition.

3 71. Menaged regularly told the Chase Defendants that, through AZHF, he was
4 in the business of purchasing foreclosed homes from public auctions.

5 **RESPONSE:** Chase denies the allegations in Paragraph 71.

6 72. Menaged further told the Chase Defendants about his business relationship
7 with DenSco and that DenSco funded these transactions, lending money to AZHF for the
8 purpose of buying foreclosed homes.

9 **RESPONSE:** Chase denies the allegations in Paragraph 72.

10 73. On information and belief, Nelson told Menaged that she was interested in
11 purchasing a home that he acquired through this process.

12 **RESPONSE:** Chase denies the allegations in Paragraph 73.

13 74. Between April 10, 2014 and June 22, 2015, DenSco wired to Menaged's
14 AZHF account \$323,638,517 in DenSco Loan Proceeds for the purpose of issuing
15 cashier's checks to purchase 1,344 separate Identified Properties.

16 **RESPONSE:** Chase admits only that, during the time Menaged banked with
17 Chase, AZHF received wire transfers that would come in standard formatting. Chase
18 lacks knowledge and information sufficient to form a belief as to the truth of the
19 remaining allegations in Paragraph 74, which therefore has the effect of a denial pursuant
20 to Ariz. R. Civ. P. 8(c)(5).

21 75. The Chase Defendants knew the source of these monies as each wire
22 transfer included the name of the originator -- "DenSco Investment Corp" -- the entity the
23 Chase Defendants knew was the funding source for Menaged's AZHF home foreclosure
24 business.

25 **RESPONSE:** Chase denies the allegations in Paragraph 75.

26 76. Approximately 96% of all deposits in Menaged's AZHF account consisted
27 of the DenSco Loan Proceeds wired to Menaged to purchase the Identified Properties.
28

1 **RESPONSE:** Chase admits that, during the time that Menaged banked with
2 Chase, AZHF at times received wire transfers that would come in standard formatting.
3 Chase denies the remaining allegations in Paragraph 76.

4 77. Nearly every weekday between April 2014 and June 2015, Menaged
5 emailed the Chase Defendants for assistance in converting to cashier's checks for the
6 purchase of the Identified Properties the monies DenSco had wired or was wiring into the
7 AZHF account.

8 **RESPONSE:** Chase admits that, during the time that Menaged banked with
9 Chase, he at times sent emails to Chase, seeking assistance in obtaining cashier's checks.
10 Chase lacks knowledge and information sufficient to form a belief as to the truth of the
11 remaining allegations in Paragraph 77, which therefore has the effect of a denial pursuant
12 to Ariz. R. Civ. P. 8(c)(5).

13 78. In these emails, Menaged provided the Chase Defendants a list of the
14 Identified Properties for which he purported to have submitted the winning bid, the name
15 of the trustee, the purchase price, and the property address.

16 **RESPONSE:** Chase admits that, during the time that Menaged banked with
17 Chase, he at times sent emails to Chase, seeking assistance in obtaining cashier's checks.
18 Chase lacks knowledge and information sufficient to form a belief as to the truth of the
19 remaining allegations in Paragraph 78, which therefore has the effect of a denial pursuant
20 to Ariz. R. Civ. P. 8(c)(5).

21 79. Menaged directed the Chase Defendants and other Chase employees to
22 prepare cashier's checks for each of the Identified Properties.

23 **RESPONSE:** Chase admits that, during the time that Menaged banked with
24 Chase, he at times sent emails to Chase, seeking assistance in obtaining cashier's checks.
25 Chase lacks knowledge and information sufficient to form a belief as to the truth of the
26 remaining allegations in Paragraph 79, which therefore has the effect of a denial pursuant
27 to Ariz. R. Civ. P. 8(c)(5).
28

1 80. Menaged directed the Chase Defendants and other Chase employees to
2 include on each check the name of the trustee, the purchase price, and in the memo line:
3 “DenSco Payment [and address of the property]” or “DenSco [and address of the
4 property]”.

5 **RESPONSE:** Chase admits that, during the time that Menaged banked with
6 Chase, he at times sent emails to Chase, seeking assistance in obtaining cashier’s checks
7 and including information to be inserted on a memo line on a cashier’s check. Chase lacks
8 knowledge and information sufficient to form a belief as to the truth of the remaining
9 allegations in Paragraph 80, which therefore has the effect of a denial pursuant to Ariz.
10 R. Civ. P. 8(c)(5).

11 81. The Chase Defendants knew that Menaged did not use the 1,344 cashier’s
12 checks for their intended and obvious purpose -- the payment to the trustee for the
13 purchase of real property described on each check – because they were at all times willing
14 to, and in fact did, almost immediately redeposit those funds so that Menaged could use
15 them for other purposes.

16 **RESPONSE:** Chase denies the allegations in Paragraph 81.

17 82. Nearly every weekday between April 2014 and June 2015, Menaged or
18 Castro would physically go into the Chase Bank Branch where they would receive the
19 cashier’s checks the Chase Defendants had prepared for that day. Menaged or Castro
20 would, usually in the presence of Nelson, Dadlani or another Chase employee, take a
21 photo of each cashier’s check, after which Nelson, Dadlani or another Chase employee
22 would re-deposit the check in Menaged’s AZHF account.

23 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
24 as to the truth of the allegations in Paragraph 82, which therefore has the effect of a denial
25 pursuant to Ariz. R. Civ. P. 8(c)(5).

26 83. For each of the 1,344 checks, which totaled \$311,241,842, Menaged did not
27 use the check for its intended purpose – the payment to the trustee for the purchase of real
28 property described on each check.

1 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
2 as to the truth of the allegations in Paragraph 83, which therefore has the effect of a denial
3 pursuant to Ariz. R. Civ. P. 8(c)(5).

4 84. Upon information and belief, on one occasion, Nelson asked Menaged why
5 he obtained and redeposited cashier's checks, to which he responded: "bookkeeping."
6 Nelson did not ask Menaged what he meant by "bookkeeping" or how that related to his
7 use of the cashier's checks. Nelson further did not ask Menaged why he was taking photos
8 of each cashier's check.

9 **RESPONSE:** Chase denies the allegations in Paragraph 84.

10 85. Upon information and belief, Nelson electronically filed in or about
11 April/May 2014 two unusual activity reports, she says, because (i) of the number and
12 amounts of the cashier's checks Menaged was redepositing on a daily basis, (ii) "his
13 transactions were different," and (iii) "the entire thing was unusual."

14 **RESPONSE:** Chase admits only that Nelson made two unusual activity reports.

15 86. Chase opened an internal investigative file in response to Nelson's report.
16 Chase noted in that file that the report was for "money laundering concerns" and that
17 "further investigation [was] needed." Upon information and belief, Chase performed no
18 further investigation, and Nelson did not file an additional report or conduct any further
19 inquiry.

20 **RESPONSE:** Chase denies the allegations in Paragraph 86.

21 87. Upon information and belief, Nelson did not share her concerns with
22 Dadlani or any other employee at the Chase Branch, as she felt she need do nothing more
23 than file two reports in response to which, to the best of her knowledge, nothing further
24 was done.

25 **RESPONSE:** Chase denies the allegation in Paragraph 87.

26 88. Upon information and belief, neither Nelson, Dadlani nor any Chase
27 employee asked Menaged or Castro why, more than 1,344 times, they undertook to have
28 Chase draft cashier's checks clearly and expressly intended to purchase from trustees

1 specific foreclosed homes as part of Menaged's business partnership with DenSco, take
2 photos of those checks and immediately re-deposit them. A single such transaction lacks
3 any legitimate business or banking purpose. 1,344 of them, involving over \$300 million,
4 is inexplicable.

5 **RESPONSE:** Chase denies the allegations in Paragraph 88.

6 89. Menaged or Castro would email to DenSco each cashier's check photo as
7 proof of the transaction. Menaged or Castro would later create false trustee's sale receipts
8 for each transaction that included information from the cashier's check connected to the
9 same fictitious transactions. Menaged or Castro emailed these receipts to DenSco, as well.
10 Chittick relied upon the photographs of the cashier's checks and accepted these photos
11 and sales receipts as confirmation that the DenSco Loan Proceeds were being used for
12 their intended purpose.

13 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
14 as to the truth of the allegations in Paragraph 89, which therefore has the effect of a denial
15 pursuant to Ariz. R. Civ. P. 8(c)(5).

16 90. The Chase Defendants knew that Menaged was taking photos of the checks
17 and had to have known that he was sending them to DenSco as proof that DenSco's Loan
18 Proceeds were being used for their intended purpose. And the Chase Defendants knew
19 that Menaged used the DenSco Loan Proceeds for his personal benefit, as they assisted
20 him in re-depositing these funds, obtaining large cash withdrawals of the re-deposited
21 funds, and transferring these funds to Menaged's personal Chase accounts.

22 **RESPONSE:** Chase denies the allegations in Paragraph 90.

23 91. Upon information and belief, shortly after Menaged began deploying this
24 scheme through the Chase Defendants in April 2014, and in recognition of the fact that
25 Menaged was every weekday having Chase issue and immediately re-deposit multiple
26 cashier's checks, each for hundreds of thousands of dollars, Nelson or another Chase
27 employee began stamping on the back of each check the words "Not Used For Intended
28 Purposes". The Chase Defendants told Menaged they would stamp each check with those

1 words unless he communicated to them before coming into the Chase Branch his intent
2 to not immediately re-deposit the check.

3 **RESPONSE:** Chase denies the allegations in Paragraph 91.

4 92. Upon information and belief, the Chase Defendants informed Menaged that
5 they were legally obligated to report to the government any cash transaction over \$10,000
6 and that their internal processes would likely trigger a suspicious activity report if a
7 transaction was just under \$10,000, such that the Chase Defendants advised Menaged to
8 withdraw or deposit cash in amounts that would avoid either report being made. Menaged
9 followed this advice.

10 **RESPONSE:** Chase denies the allegations in Paragraph 92.

11 93. The Chase Defendants further knew of, assisted with, and recklessly
12 tolerated Menaged's misappropriation of the DenSco Loan Proceeds that had been
13 deposited in his AZHF account for, among other things, recreational gambling. Among
14 other things, the Chase Defendants (i) increased to approximately \$40,000 the spending
15 limit on Menaged's AZHF debit card to avoid Chase's fraud prevention department
16 flagging the account or declining the card, (ii) asked Chase's fraud prevention department
17 to remove suspensions or "flags" on the AZHF debit card due to the high dollar amounts
18 that were being charged at casinos, (iii) initiated outgoing wire transfers and issued
19 cashier's checks from Menaged's AZHF account to various casinos, and (iv) confirmed
20 with various casinos that these cashier's checks or wire transfers were legitimate.

21 **RESPONSE:** Chase denies the allegations in Paragraph 93.

22 94. Upon information and belief, the Chase Defendants knew of, assisted, and
23 recklessly tolerated Menaged's unlawful use of the DenSco Loan Proceeds by not
24 following their own policies and procedures, including (i) regularly violating Chase's
25 multi-day hold policy before wire-transferred funds can be withdrawn, (ii) systematically
26 overriding the 5-7 day hold policy for the funds of re-deposited cashier's checks, and (iii)
27 contravening Chase's policy requiring an account holder to sign in person the
28 documentation for a cashier's check, and issuing them in response to Menaged's emails.

1 **RESPONSE:** Chase denies the allegations in Paragraph 94.

2 95. The Chase Defendants were motivated to assist Menaged in these
3 transactions to keep Menaged as a banking customer, particularly one who maintained
4 accounts worth millions of dollars. On information and belief, by keeping Menaged's
5 accounts at Chase, Lazar, Dadlani, Nelson, and other Chase employees benefitted
6 personally in the form of additional compensation.

7 **RESPONSE:** Chase denies the allegations in Paragraph 95.

8 96. The Chase Defendants kept silent as to Menaged's scheme and wrongful
9 actions; they never informed DenSco about Menaged's scheme and wrongful actions.

10 **RESPONSE:** Chase denies the allegations in Paragraph 96.

11 97. Without the substantial assistance of the Chase Defendants, Menaged could
12 not have defrauded DenSco of more than \$300 million in DenSco Loan Proceeds.

13 **RESPONSE:** Chase denies the allegations in Paragraph 97.

14 98. In April 2016, Menaged filed for Chapter 7 bankruptcy.

15 **RESPONSE:** Chase admits that according to the Receiver, Menaged filed for
16 Chapter 7 bankruptcy in April 2016. *Peter S. Davis, as Receiver of DenSco Investment*
17 *Corporation v. Clark Hill, PLC*, Case No. CV2017-013832. To the extent a further
18 response is required, Chase lacks additional knowledge and information sufficient to form
19 a belief as to the truth of the allegations in Paragraph 98, which therefore has the effect
20 of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

21 99. At the time, Menaged, AZHF and Easy Investments owed DenSco
22 approximately \$44 million in loans.

23 **RESPONSE:** Chase admits that according to the Receiver, DenSco and Chittick
24 continued to participate in a real estate fraud scheme involving DenSco and Menaged
25 even after DenSco discovered the fraud and that as part of that fraud Menaged owed
26 DenSco money. *Peter S. Davis, as Receiver of DenSco Investment Corporation v. Clark*
27 *Hill, PLC*, Case No. CV2017-013832. To the extent a further response is required, Chase
28 lacks additional knowledge and information sufficient to form a belief as to the truth of

1 the allegations in Paragraph 99, which therefore has the effect of a denial pursuant to Ariz.
2 R. Civ. P. 8(c)(5).

3 100. When Chittick learned of the bankruptcy filings, he confronted Menaged,
4 who falsely said that the money owed to DenSco was safe and was being held at
5 Auction.com, an online marketplace for foreclosure buyers.

6 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
7 as to the truth of the allegations in Paragraph 100, which therefore has the effect of a
8 denial pursuant to Ariz. R. Civ. P. 8(c)(5).

9 101. Menaged further lied and told Chittick that Menaged would be able to
10 retrieve the money from Auction.com and repay DenSco when the bankruptcy action was
11 discharged.

12 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
13 as to the truth of the allegations in Paragraph 101, which therefore has the effect of a
14 denial pursuant to Ariz. R. Civ. P. 8(c)(5).

15 102. Menaged warned Chittick not tell anyone about the Auction.com
16 arrangement because the bankruptcy court would, if it learned of the funds, attempt to
17 pull them into the Chapter 7 action.

18 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
19 as to the truth of the allegations in Paragraph 102, which therefore has the effect of a
20 denial pursuant to Ariz. R. Civ. P. 8(c)(5).

21 103. Menaged also threatened Chittick that if he told anyone about Auction.com,
22 Menaged would testify that Chittick was complicit in the First Fraud and knew all along
23 that DenSco's loans were unsecured.

24 **RESPONSE:** Chase denies Paragraph 103's characterization of the allegations as
25 pertaining to a distinct "First Fraud" as inconsistent with the Receiver's prior court filings.
26 To the extent a further response is required, Chase lacks additional knowledge and
27 information sufficient to form a belief as to the truth of the remaining allegations in
28

1 Paragraph 103, which therefore has the effect of a denial pursuant to Ariz. R. Civ. P.
2 8(c)(5).

3 104. On July 28, 2016, Chittick committed suicide.

4 **RESPONSE:** Chase admits that according to the Receiver, Chittick committed
5 suicide on July 28, 2016. *Peter S. Davis, as Receiver of DenSco Investment Corporation*
6 *v. Clark Hill, PLC*, Case No. CV2017-013832. To the extent a further response is
7 required, Chase lacks additional knowledge and information sufficient to form a belief as
8 to the truth of the allegations in Paragraph 104, which therefore has the effect of a denial
9 pursuant to Ariz. R. Civ. P. 8(c)(5).

10 105. Chittick died unaware of the Second Fraud.

11 **RESPONSE:** Chase denies the allegations in Paragraph 105, as it is inconsistent
12 with the Receiver's prior court filings. Chase further denies Paragraph 105's
13 characterization of the allegations as pertaining to a distinct "First Fraud" and "Second
14 Fraud" as inconsistent with the Receiver's prior court filings.

15 106. The Receiver was appointed on August 18, 2016.

16 **RESPONSE:** Chase admits the allegations in Paragraph 106 insofar as they are
17 consistent with the orders of the Receivership Court.

18 107. On August 23, 2016, the Receiver obtained a document that vaguely
19 referenced how DenSco had altered its lending practices with Menaged and his entities in
20 January 2014. The Receiver immediately began investigating all funds DenSco had
21 loaned to Menaged, discovering that Menaged had not used the DenSco Loan Proceeds
22 for their intended purpose -- to purchase the Identified Properties.

23 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
24 as to the truth of the allegations in Paragraph 107, which therefore has the effect of a
25 denial pursuant to Ariz. R. Civ. P. 8(c)(5).

26 108. On or about October 3, 2016, the Receiver obtained selected documents
27 from a forensic image of Menaged's computers and cellphone, which included some
28 email communication with Chase employees.

1 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
2 as to the truth of the allegations in Paragraph 108, which therefore has the effect of a
3 denial pursuant to Ariz. R. Civ. P. 8(c)(5).

4 109. On October 20, 2016, the Receiver deposed Menaged.

5 **RESPONSE:** Chase admits that according to the Receiver, Menaged was deposed
6 by the Receiver on October 20, 2016. *Peter S. Davis, as Receiver of DenSco Investment*
7 *Corporation v. Clark Hill, PLC*, Case No. CV2017-013832. To the extent a further
8 response is required, Chase lacks additional knowledge and information sufficient to form
9 a belief as to the truth of the allegations in Paragraph 109, which therefore has the effect
10 of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

11 110. On November 7 and 8, 2016, the Receiver issued subpoenas to US Bank
12 and to Chase, who began to produce responsive documents.

13 **RESPONSE:** Chase admits that the Receiver issued a subpoena to Chase. Chase
14 lacks knowledge and information sufficient to form a belief as to the truth of the
15 remaining allegations in Paragraph 110, which therefore has the effect of a denial
16 pursuant to Ariz. R. Civ. P. 8(c)(5).

17 111. In the spring and summer of 2017, the Receiver performed a complete
18 forensic recreation of Menaged's banking activity.

19 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
20 as to the truth of the allegations in Paragraph 111, which therefore has the effect of a
21 denial pursuant to Ariz. R. Civ. P. 8(c)(5).

22 112. On December 8, 2017, counsel for the Receiver interviewed Menaged who
23 testified under oath regarding the Second Fraud and his involvement with US Bank and
24 Chase.

25 **RESPONSE:** Chase admits that according to the Receiver, Menaged was
26 interviewed by the Receiver on December 8, 2017. Chase denies Paragraph 112's
27 characterization of its allegations as pertaining to a distinct "Second Fraud" as
28 inconsistent with the Receiver's prior court filings. Chase denies the remaining

1 allegations insofar as they relate to Chase. Chase lacks knowledge and information
2 sufficient to form a belief as to the truth of the remaining allegations in Paragraph 112,
3 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

4 113. Menaged testified at that time that, before he went into the Chase Branch to
5 sign for the cashier's checks and deposit, Nelson stamped on the back of the cashier's
6 checks "Not Used for Purposes Intended" or something similar, and further wrote on the
7 back of each check the AZHF account number to expedite Menaged's redeposit of the
8 DenSco Loan Proceeds.

9 **RESPONSE:** Chase admits that according to the Receiver, Menaged was
10 interviewed by the Receiver on December 8, 2017. Chase denies the remaining
11 allegations insofar as they relate to Chase. Chase lacks knowledge and information
12 sufficient to form a belief as to the truth of the remaining allegations in Paragraph 113,
13 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

14 **COUNT ONE**
15 **(Aiding and Abetting Fraud: US Bank; Chavez)**

16 114. Paragraphs 1 through 113 are incorporated by reference.

17 **RESPONSE:** Paragraph 114 does not call for a response from Chase. To the
18 extent a response is required, Chase re-asserts and incorporates herein its responses to
19 Paragraphs 1 through 113 above.

20 115. Menaged engaged in fraudulent conduct that caused DenSco harm. In
21 particular:

22 a. Menaged represented to DenSco that, through the use of the
23 individual cashier's checks issued by the US Bank Defendants and fabricated trustees'
24 receipts, he was using the DenSco Loan Proceeds to purchase the Identified Properties.

25 b. These representations were false.

26 c. These representations were material, as DenSco relied on them to
27 conclude that Menaged had purchased the Identified Properties.
28

1 d. Menaged knew these representations were false and intended that
2 DenSco would act upon them in the manner Menaged reasonably intended.

3 e. DenSco, in fact, continued to act upon these representations, as it
4 wired Menaged additional DenSco Loan Proceeds to purchase new Identified Properties.

5 f. DenSco did not know Menaged's representations were false.

6 g. DenSco relied on Menaged's representations.

7 h. DenSco's reliance was reasonable and justified under the
8 circumstances.

9 i. As a result, DenSco suffered damages for which it is entitled to
10 compensation. In particular:

11 **RESPONSE:** Paragraph 115 states a legal conclusion to which no response is
12 required. To the extent a response is required, Chase lacks knowledge and information
13 sufficient to form a belief as to the truth of the allegations in Paragraph 115, which
14 therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

15 116. The US Bank Defendants knew that Menaged was engaging in such
16 conduct.

17 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
18 as to the truth of the allegations in Paragraph 116, which therefore has the effect of a
19 denial pursuant to Ariz. R. Civ. P. 8(c)(5).

20 117. The US Bank Defendants substantially assisted or encouraged Menaged in
21 his fraud against DenSco.

22 **RESPONSE:** Chase lacks knowledge and information sufficient to form a belief
23 as to the truth of the allegations in Paragraph 117, which therefore has the effect of a
24 denial pursuant to Ariz. R. Civ. P. 8(c)(5).

25 **COUNT TWO**
26 **(Aiding and Abetting Fraud: Chase, Nelson and Dadlani)**

27 118. Paragraphs 1 through 117 are incorporated by reference.
28

1 **RESPONSE:** Chase re-asserts and incorporates herein its responses to Paragraphs
2 1 through 117 above.

3 119. Menaged engaged in fraudulent conduct that caused DenSco harm. In
4 particular:

5 a. Menaged represented to DenSco that, through the use of the
6 individual cashier's checks issued by the Chase Defendants and fabricated trustees'
7 receipts, he was using the DenSco Loan Proceeds to purchase the Identified Properties.

8 b. These representations were false.

9 c. These representations were material, as DenSco relied on them to
10 conclude that Menaged had purchased the Identified Properties.

11 d. Menaged knew these representations were false and intended that
12 DenSco would act upon them in the manner Menaged reasonably intended.

13 e. DenSco, in fact, continued to act upon these representations, as it
14 wired Menaged additional DenSco Loan Proceeds to purchase new Identified Properties.

15 f. DenSco did not know Menaged's representations were false.

16 g. DenSco relied on Menaged's representations.

17 h. DenSco's reliance was reasonable and justified under the
18 circumstances.

19 i. As a result, DenSco suffered damages for which it is entitled to
20 compensation.

21 **RESPONSE:** Paragraph 119 states a legal conclusion to which no response is
22 required. To the extent a response is required, Chase lacks knowledge and information
23 sufficient to form a belief as to the truth of the allegations in Paragraph 119, which
24 therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

25 120. The Chase Defendants knew that Menaged was engaging in such conduct.

26 **RESPONSE:** Chase denies the allegations in Paragraph 120.

27 121. The Chase Defendants substantially assisted or encouraged Menaged in his
28 fraud against DenSco.

1 **RESPONSE:** Chase denies the allegations in Paragraph 121.

2 **COUNT THREE**

3 **(Aiding and Abetting Conversion: US Bank and Chavez)**

4 122. Paragraphs 1 through 121 are incorporated by reference.

5 **RESPONSE:** Count Three was dismissed by the Court's Under Advisement
6 Ruling, dated September 13, 2021, as to Defendants US Bank and Chavez. As such,
7 Paragraph 122 does not require a response from Chase.

8 123. Menaged exercised wrongful dominion over DenSco's property by
9 redepositing and using on a personal basis the DenSco Loan Proceeds, in denial of
10 DenSco's rights.

11 **RESPONSE:** Count Three was dismissed by the Court's Under Advisement
12 Ruling, dated September 13, 2021, as to Defendants US Bank and Chavez. As such,
13 Paragraph 123 does not require a response from Chase.

14 124. The US Bank Defendants knew that Menaged was engaging in such
15 conduct.

16 **RESPONSE:** Count Three was dismissed by the Court's Under Advisement
17 Ruling, dated September 13, 2021, as to Defendants US Bank and Chavez. As such,
18 Paragraph 124 does not require a response from Chase.

19 125. The US Bank Defendants substantially assisted or encouraged Menaged in
20 his conversion against DenSco.

21 **RESPONSE:** Count Three was dismissed by the Court's Under Advisement
22 Ruling, dated September 13, 2021, as to Defendants US Bank and Chavez. As such,
23 Paragraph 125 does not require a response from Chase.

24 126. By reason of this conduct, DenSco was damaged.

25 **RESPONSE:** Count Three was dismissed by the Court's Under Advisement
26 Ruling, dated September 13, 2021, as to Defendants US Bank and Chavez. As such,
27 Paragraph 126 does not require a response from Chase.

COUNT FOUR
(Aiding and Abetting Conversion: Chase, Nelson and Dadlani)

127. Paragraphs 1 through 126 are incorporated by reference.

RESPONSE: Count Four was dismissed by the Court's Under Advisement Ruling, dated September 13, 2021, as to Defendants Chase, Nelson and Dadlani. As such, Paragraph 127 does not require a response from Chase.

128. Menaged exercised wrongful dominion over DenSco's property by redepositing and using on a personal basis the DenSco Loan Proceeds, in denial of DenSco's rights.

RESPONSE: Count Four was dismissed by the Court's Under Advisement Ruling, dated September 13, 2021, as to Defendants Chase, Nelson and Dadlani. As such, Paragraph 128 does not require a response from Chase.

129. The Chase Defendants knew that Menaged was engaging in such conduct.

RESPONSE: Count Four was dismissed by the Court's Under Advisement Ruling, dated September 13, 2021, as to Defendants Chase, Nelson and Dadlani. As such, Paragraph 129 does not require a response from Chase.

130. The Chase Defendants substantially assisted or encouraged Menaged in his conversion against DenSco.

RESPONSE: Count Four was dismissed by the Court's Under Advisement Ruling, dated September 13, 2021, as to Defendants Chase, Nelson and Dadlani. As such, Paragraph 130 does not require a response from Chase.

131. By reason of this conduct, DenSco was damaged.

RESPONSE: Count Four was dismissed by the Court's Under Advisement Ruling, dated September 13, 2021, as to Defendants Chase, Nelson and Dadlani. As such, Paragraph 131 does not require a response from Chase.

COUNT FIVE
(Aiding and Abetting Breach of Fiduciary Duty: US Bank and Chavez)

132. Paragraphs 1 through 131 are incorporated by reference.

1 **RESPONSE:** Count Five was dismissed by the Court's Under Advisement
2 Ruling, dated September 13, 2021, as to Defendants US Bank and Chavez. As such,
3 Paragraph 132 does not require a response from Chase.

4 133. Menaged, through his business relationship with DenSco, owed fiduciary
5 duties to DenSco.

6 **RESPONSE:** Count Five was dismissed by the Court's Under Advisement
7 Ruling, dated September 13, 2021, as to Defendants US Bank and Chavez. As such,
8 Paragraph 133 does not require a response from Chase.

9 134. Menaged breached his fiduciary duties to DenSco.

10 **RESPONSE:** Count Five was dismissed by the Court's Under Advisement
11 Ruling, dated September 13, 2021, as to Defendants US Bank and Chavez. As such,
12 Paragraph 134 does not require a response from Chase.

13 135. The US Bank Defendants knew that Menaged breached his fiduciary duties
14 to DenSco.

15 **RESPONSE:** Count Five was dismissed by the Court's Under Advisement
16 Ruling, dated September 13, 2021, as to Defendants US Bank and Chavez. As such,
17 Paragraph 135 does not require a response from Chase.

18 136. The US Bank Defendants substantially assisted or encouraged Menaged in
19 the breach of his fiduciary duties to DenSco.

20 **RESPONSE:** Count Five was dismissed by the Court's Under Advisement
21 Ruling, dated September 13, 2021, as to Defendants US Bank and Chavez. As such,
22 Paragraph 136 does not require a response from Chase.

23 137. By reason of this conduct DenSco was damaged.

24 **RESPONSE:** Count Five was dismissed by the Court's Under Advisement
25 Ruling, dated September 13, 2021, as to Defendants US Bank and Chavez. As such,
26 Paragraph 137 does not require a response from Chase.

COUNT SIX

(Aiding and Abetting Breach of Fiduciary Duty: Chase, Nelson and Dadlani)

138. Paragraphs 1 through 137 are incorporated by reference.

RESPONSE: Count Six was dismissed by the Court's Under Advisement Ruling, dated September 13, 2021, as to Defendants Chase, Nelson and Dadlani. As such Paragraph 138 does not require a response from Chase.

139. Menaged, through his business relationship with DenSco, owed fiduciary duties to DenSco.

RESPONSE: Count Six was dismissed by the Court's Under Advisement Ruling, dated September 13, 2021, as to Defendants Chase, Nelson and Dadlani. As such, Paragraph 139 does not require a response from Chase.

140. Menaged breached his fiduciary duties to DenSco.

RESPONSE: Count Six was dismissed by the Court's Under Advisement Ruling, dated September 13, 2021, as to Defendants Chase, Nelson and Dadlani. As such, Paragraph 140 does not require a response from Chase.

141. The Chase Defendants knew that Menaged breached his fiduciary duties to DenSco.

RESPONSE: Count Six was dismissed by the Court's Under Advisement Ruling, dated September 13, 2021, as to Defendants Chase, Nelson and Dadlani. As such, Paragraph 141 does not require a response from Chase.

142. The Chase Defendants substantially assisted or encouraged Menaged in the breach of his fiduciary duties to DenSco.

RESPONSE: Count Six was dismissed by the Court's Under Advisement Ruling, dated September 13, 2021, as to Defendants Chase, Nelson and Dadlani. As such, Paragraph 142 does not require a response from Chase.

143. By reason of this conduct, DenSco was damaged.

1 **RESPONSE:** Count Six was dismissed by the Court's Under Advisement Ruling,
2 dated September 13, 2021, as to Defendants Chase, Nelson and Dadlani. As such,
3 Paragraph 143 does not require a response from Chase.

4 **COUNT SEVEN**
5 **(Civil Racketeering: US Bank and Chavez)**

6 144. Paragraphs 1 through 143 are incorporated by reference.

7 **RESPONSE:** Count Seven was dismissed as to Defendant US Bank by the Court's
8 Under Advisement Ruling, dated September 13, 2021. Paragraph 144 does not call for a
9 response from Chase. To the extent a response is required, Chase re-asserts and
10 incorporates herein its responses to Paragraphs 1 through 143 above.

11 145. Menaged, Castro and others engaged in a pattern of unlawful activity for
12 the purpose of financial gain.

13 **RESPONSE:** Count Seven was dismissed as to Defendant US Bank by the Court's
14 Under Advisement Ruling, dated September 13, 2021. Chase lacks knowledge and
15 information sufficient to form a belief as to the truth of the allegations in Paragraph 145,
16 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

17 146. For each occasion where the DenSco Loan Proceeds were not used for their
18 intended purpose and instead were re-deposited by Menaged for his personal use,
19 Menaged, Castro and others committed theft, money laundering, and engaged in a scheme
20 or artifice to defraud.

21 **RESPONSE:** Count Seven was dismissed as to Defendant US Bank by the Court's
22 Under Advisement Ruling, dated September 13, 2021. Chase lacks knowledge and
23 information sufficient to form a belief as to the truth of the allegations in Paragraph 146,
24 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

25 147. Each theft, act of money laundering, and act in furtherance of the scheme
26 and artifice to defraud had the same purpose, the same participants and the same victim.

27 **RESPONSE:** Count Seven was dismissed as to Defendant US Bank by the Court's
28 Under Advisement Ruling, dated September 13, 2021. Chase lacks knowledge and

1 information sufficient to form a belief as to the truth of the allegations in Paragraph 147,
2 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

3 148. Menaged, Castro and others engaged in theft by, without lawful authority,
4 knowingly controlling DenSco's property with the intent to deprive DenSco of that
5 property and by converting for an unauthorized term DenSco's property, acts that are
6 chargeable under Arizona law, that are punishable for more than one year, and were
7 committed for financial gain. A.R.S. § 13-1802(A).

8 **RESPONSE:** Count Seven was dismissed as to Defendant US Bank by the Court's
9 Under Advisement Ruling, dated September 13, 2021. Chase lacks knowledge and
10 information sufficient to form a belief as to the truth of the allegations in Paragraph 148,
11 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

12 149. Menaged, Castro and others engaged in money laundering in the second
13 degree by transacting, transferring and receiving racketeering proceeds knowing they
14 were the proceeds of an offense, acts that are chargeable under Arizona law, that are
15 punishable for more than one year, and were committed for financial gain. A.R.S. § 13-
16 2317(B).

17 **RESPONSE:** Count Seven was dismissed as to Defendant US Bank by the Court's
18 Under Advisement Ruling, dated September 13, 2021. Chase lacks knowledge and
19 information sufficient to form a belief as to the truth of the allegations in Paragraph 149,
20 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

21 150. Menaged, Castro and others engaged in a scheme or artifice to defraud
22 DenSco by knowingly obtaining a benefit by means of false or fraudulent pretenses,
23 representation, promises or material omissions, acts that are chargeable under Arizona
24 law, that are punishable for more than one year, and were committed for financial gain.
25 A.R.S. § 13-2310.

26 **RESPONSE:** Count Seven was dismissed as to Defendant US Bank by the Court's
27 Under Advisement Ruling, dated September 13, 2021. Chase lacks knowledge and
28

1 information sufficient to form a belief as to the truth of the allegations in Paragraph 150,
2 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

3 151. This pattern of unlawful activity caused DenSco's damages.

4 **RESPONSE:** Count Seven was dismissed as to Defendant US Bank by the Court's
5 Under Advisement Ruling, dated September 13, 2021. Chase lacks knowledge and
6 information sufficient to form a belief as to the truth of the allegations in Paragraph 151,
7 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

8 152. DenSco's damages were a reasonably foreseeably result of this pattern of
9 unlawful activity.

10 **RESPONSE:** Count Seven was dismissed as to Defendant US Bank by the Court's
11 Under Advisement Ruling, dated September 13, 2021. Chase lacks knowledge and
12 information sufficient to form a belief as to the truth of the allegations in Paragraph 152,
13 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

14 153. The US Bank Defendants, including high managerial agents, authorized,
15 ratified, and recklessly tolerated the conduct of Menaged, Castro and others and are
16 therefore liable for it. A.R.S. § 13-2314.04(L).

17 **RESPONSE:** Count Seven was dismissed as to Defendant US Bank by the Court's
18 Under Advisement Ruling, dated September 13, 2021. Chase lacks knowledge and
19 information sufficient to form a belief as to the truth of the allegations in Paragraph 153,
20 which therefore has the effect of a denial pursuant to Ariz. R. Civ. P. 8(c)(5).

21 **COUNT EIGHT**
22 **(Civil Racketeering: Chase, Nelson and Dadlani)**

23 154. Paragraphs 1 through 153 are incorporated by reference.

24 **RESPONSE:** Count Eight was dismissed as to Defendant Chase by the Court's
25 Under Advisement Ruling, dated September 13, 2021. As such, Paragraph 154 does not
26 require a response from Chase.

27 155. Menaged, Castro and others engaged in a pattern of unlawful activity for
28 the purpose of financial gain.

1 **RESPONSE:** Count Eight was dismissed as to Defendant Chase by the Court's
2 Under Advisement Ruling, dated September 13, 2021. As such, Paragraph 155 does not
3 require a response from Chase.

4 156. For each occasion where the DenSco Loan Proceeds were not used for their
5 intended purpose and instead re-deposited by Menaged for his personal use, Menaged,
6 Castro and others committed theft, money laundering, and engaged in a scheme or artifice
7 to defraud.

8 **RESPONSE:** Count Eight was dismissed as to Defendant Chase by the Court's
9 Under Advisement Ruling, dated September 13, 2021. As such, Paragraph 156 does not
10 require a response from Chase.

11 157. Each theft, act of money laundering and part of the scheme and artifice to
12 defraud had the same purpose, the same participants and the same victim.

13 **RESPONSE:** Count Eight was dismissed as to Defendant Chase by the Court's
14 Under Advisement Ruling, dated September 13, 2021. As such, Paragraph 157 does not
15 require a response from Chase.

16 158. Menaged, Castro and others engaged in theft by, without lawful authority,
17 knowingly controlling DenSco's property with the intent to deprive DenSco of that
18 property and by converting for an unauthorized term DenSco's property, acts that are
19 chargeable under Arizona law, that are punishable for more than one year, and were
20 committed for financial gain. A.R.S. § 13-1802(A).

21 **RESPONSE:** Count Eight was dismissed as to Defendant Chase by the Court's
22 Under Advisement Ruling, dated September 13, 2021. As such, Paragraph 158 does not
23 require a response from Chase.

24 159. Menaged, Castro and others engaged in money laundering in the second
25 degree by transacting, transferring and receiving racketeering proceeds knowing they
26 were the proceeds of an offense and by intentionally or knowingly evading reporting
27 requirements through structuring transactions and by causing Chase to fail to file required
28 reports for transfers over \$10,000, acts that are chargeable under Arizona law, that are

1 punishable for more than one year, and were committed for financial gain. A.R.S. § 13-
2 2317(B).

3 **RESPONSE:** Count Eight was dismissed as to Defendant Chase by the Court's
4 Under Advisement Ruling, dated September 13, 2021. As such, Paragraph 159 does not
5 require a response from Chase.

6 160. Menaged, Castro and others engaged in a scheme or artifice to defraud
7 DenSco by knowingly obtaining a benefit by means of false or fraudulent pretenses,
8 representation, promises or material omissions, acts that are chargeable under Arizona
9 law, that are punishable for more than one year, and were committed for financial gain.
10 A.R.S. § 13-2310.

11 **RESPONSE:** Count Eight was dismissed as to Defendant Chase by the Court's
12 Under Advisement Ruling, dated September 13, 2021. As such, Paragraph 160 does not
13 require a response from Chase.

14 161. This pattern of unlawful activity caused DenSco's damages.

15 **RESPONSE:** Count Eight was dismissed as to Defendant Chase by the Court's
16 Under Advisement Ruling, dated September 13, 2021. As such, Paragraph 161 does not
17 require a response from Chase.

18 162. DenSco's damages were a reasonably foreseeably result of this pattern of
19 unlawful activity.

20 **RESPONSE:** Count Eight was dismissed as to Defendant Chase by the Court's
21 Under Advisement Ruling, dated September 13, 2021. As such, Paragraph 162 does not
22 require a response from Chase.

23 163. The Chase Defendants, including high managerial agents, authorized,
24 ratified and recklessly tolerated the conduct of Menaged, Castro and others and are
25 therefore liable for it. A.R.S. § 13-2314.04(L).

26 **RESPONSE:** Count Eight was dismissed as to Defendant Chase by the Court's
27 Under Advisement Ruling, dated September 13, 2021. As such, Paragraph 163 does not
28 require a response from Chase.

1 **DENIAL OF ALLEGATIONS AND AFFIRMATIVE DEFENSES**

2 Except as expressly and specifically admitted above, Chase denies each and every
3 allegation contained in the Third Amended Complaint. Chase hereby sets forth its
4 Affirmative Defenses to the Third Amended Complaint. By listing any matter as a
5 defense, Chase does not assume the burden of proof or any other burden if such burden
6 would be on the Receiver filing this matter on behalf of DenSco under applicable law.
7 Chase reserves the right to add to, delete from, and/or modify its affirmative defenses as
8 this matter proceeds and its investigation continues.

9 **First Affirmative Defense**

10 The Receiver lacks standing to bring its claim. Any purported injury alleged
11 herein was to DenSco's investors, not DenSco itself. Thus, the third-party tort theory of
12 liability asserted here belongs to those investors, and not the Receiver, who stands in
13 DenSco's shoes, not DenSco's investors' shoes. Because the Receiver stands in the shoes
14 of a tarnished entity that benefitted from an alleged Ponzi scheme, he lacks standing to
15 bring third-party claims for aiding and abetting on behalf of the entity because the
16 corporation cannot be said to have suffered an injury from the scheme it helped to
17 perpetrate.

18 **Second Affirmative Defense**

19 The Receiver's claim is barred by the applicable three-year statute of limitations,
20 which accrued no later than December 2014, after DenSco discovered Menaged's alleged
21 fraud.

22 **Third Affirmative Defense**

23 The Receiver's claim is barred in whole or in part by the doctrine of laches, as
24 DenSco's delay in filing until 2019 constitutes an at least five-year delay in asserting its
25 purported claim.

26 **Fourth Affirmative Defense**

27 The Receiver's claim is barred in whole or in part by the doctrine of waiver.
28 DenSco waived any tort claim against Chase by assenting to the conduct alleged herein

1 during the time Menaged banked with Chase.

2 **Fifth Affirmative Defense**

3 The Receiver's claim is barred in whole or in part by the doctrine of acquiescence.
4 DenSco acquiesced to the conduct alleged herein during the time that Menaged banked
5 with Chase.

6 **Sixth Affirmative Defense**

7 The Receiver's claim is barred in whole or in part by the doctrine of estoppel.
8 Plaintiff's claim inequitably and improperly repudiates DenSco's knowing and intelligent
9 assent to Chase's conduct alleged herein during the time Menaged banked with Chase.

10 **Seventh Affirmative Defense**

11 The Receiver's claim is barred in whole or in part by the doctrine of unclean hands.
12 Any injury alleged herein was due in whole or in part to DenSco's own misconduct and
13 mismanagement of investor funds.

14 **Eighth Affirmative Defense**

15 The Receiver's claim is barred in whole or in part by the doctrine of *in pari delicto*.
16 Any injury alleged herein is at least equally the fault of DenSco's own misconduct and
17 mismanagement of funds.

18 **Ninth Affirmative Defense**

19 The Receiver's claim is barred in whole or in part by the doctrine of comparative
20 fault. Any injury alleged herein was caused, at least in part, by DenSco's own misconduct
21 and mismanagement of funds.

22 **Tenth Affirmative Defense**

23 The Receiver's claim is barred in whole or in part by the doctrine of assumption
24 of risk. In continuing to engage with Menaged after discovering that Menaged was using
25 DenSco Loan Proceeds for his personal benefit, DenSco assumed the risks attendant to
26 that continued engagement, including the potential that Menaged would injure DenSco
27 investors by continuing to use DenSco Loan Proceeds for his personal benefit.
28

Eleventh Affirmative Defense

The Receiver's claim is barred in whole or in part by the doctrine of fraud, as its sole director and shareholder, Denny Chittick, acted in concert with the underlying alleged fraudster.

Twelfth Affirmative Defense

The Receiver's claim is barred based on the admissions and other statements made or adopted by the Receiver in the other court filings by the Receiver, including, without limitation, those admissions that demonstrate that the Receiver cannot state an aiding and abetting claim because there is no viable underlying tort of fraud. Given the Receiver's admissions concerning DenSco and Chittick's knowledge of Menaged's conduct, DenSco could never have reasonably relied on any purported representations by Menaged concerning transactions and/or cashier's checks at Chase.

Thirteenth Affirmative Defense

The Receiver's claim may be barred in whole or in part by the doctrines of res judicata, estoppel, issue preclusion, and/or claim preclusion to the extent that they and/or any issues relating thereto have been previously decided in any related state court proceeding.

WHEREFORE, Chase prays for the following relief:

- A. Dismissal of all claims, with prejudice;
- B. Chase's costs (A.R.S. § 12-341).

DATED this 8th day of October 2021.

GREENBERG TRAURIG, LLP

By: /s/ Nicole M. Goodwin

Nicole M. Goodwin

Paul J. Ferak (*pro hac vice*)

Jonathan H. Claydon (*pro hac vice*)

Attorneys for Defendants JP Morgan Chase Bank

1 ORIGINAL of the foregoing e-filed with the
2 Clerk of Court this 8th day of October 2021.

3 COPY of the foregoing electronically
4 distributed this 8th day of October 2021 to:

5 Hon. Daniel Martin

6 COPY of the foregoing served via
7 TurboCourt e-Service and E-Mail this 8th
8 day of October 2021 to:

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